

**PUBLIC VERSION**  
**REDACTED - FOR PUBLIC INSPECTION**

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October 11, 2019

**By ECFS**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: ***Iowa Network Access Division Tariff F.C.C. No. 1, WC Docket No. 18-60,***  
**Transmittal No. 44**

Dear Ms. Dortch:

AT&T Services, Inc. (“AT&T”) hereby submits the **Public Version** of an ex parte letter in support of its Petition to Reject or to Suspend and Investigate the proposed tariff in Transmittal No. 44 filed by Iowa Network Services, Inc. d/b/a Aureon Network Services (“Aureon”). Consistent with the Commission’s rules and the March 26, 2018 Protective Order entered by the Commission Staff, AT&T has redacted all “Confidential Information” from the **Public Version**, which it is filing by ECFS.

AT&T is also filing by hand with the Secretary’s office four hard copies of the **Confidential Version** of this submission. In addition, copies of all versions of the submission are being served electronically on Aureon’s counsel.

Please contact me if you have any questions regarding this matter.

/s/ James F. Bendernagel, Jr. \_\_\_\_\_  
James F. Bendernagel, Jr.

Cc: James L. Troup, Counsel for Aureon  
Tony Lee, Counsel for Aureon  
Victoria Goldberg, FCC  
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Re: ***Iowa Network Access Division Tariff F.C.C. No. 1, WC Docket No. 18-60,***  
**Transmittal No. 44**

Dear Ms. Dortch:

This *ex parte* filing is being submitted on behalf of AT&T Services, Inc. (“AT&T”) for two principal reasons: (1) to draw attention to the startling and disturbing admissions in Aureon’s Reply,<sup>1</sup> which establish that Aureon does not route its traffic consistent with the terms of its tariff; and (2) to highlight Aureon’s furtive concealment of significant phantom routing issues, which call into question the veracity of Aureon’s cost allocations, the CLEC benchmark rate calculation that the Commission approved in its July 2018 *Rate Order*, and the amounts AT&T is separately billed for switched transport by Aureon’s access stimulating CLECs.

In its Reply, Aureon admits, for the first time, **[[BEGIN CONFIDENTIAL]]**

**CONFIDENTIAL]]**. These astonishing admissions demand further investigation, and possibly

<sup>1</sup> See Reply of Iowa Network Services d/b/a Aureon Network Services to the Petition to Reject or to Suspend and Investigate Filed by AT&T Corp, WC Docket No. 18-60, Transmittal No. 44 (Oct. 10, 2019) (“Aureon Oct. 10 Reply”).

<sup>2</sup> **[[BEGIN CONFIDENTIAL]]**

**[[END CONFIDENTIAL]]**

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reconsideration of prior decisions. *See, e.g., Qwest v. Farmers*, 23 FCC Rcd 1615, ¶¶ 6-11 (2008) (reconsideration warranted because, “[i]n order to protect the integrity of our process, we must have access to a full record.”).

Notwithstanding the Commission’s multiple requests for Aureon to justify its circuit inventory and routing, and notwithstanding AT&T’s multiple submissions that address these issues (including AT&T’s recent August 20 *Ex Parte*),<sup>4</sup> Aureon withheld—until yesterday—this significant information about its circuits and the virtual routing of its traffic. Accordingly, the Commission should either reject outright Aureon’s September 2019 Proposed Tariff<sup>5</sup> or, at minimum, suspend it for investigation.

## **I. Aureon Admits That It Does Not Route Its Traffic Consistent With The Terms Of Its Tariff, Thereby Overstating Its CEA Rate And Enabling Its Access Stimulating CLECs To Misbill IXC’s For Phantom Routing.**

As AT&T explained in its August 20 *Ex Parte*,<sup>6</sup> Aureon’s tariff makes clear that the transport associated with CEA service is between (i) Aureon’s “central access tandem” switches at Des Moines and Kamrar and (ii) the seven active points of interconnection (“POIs”) identified “at a location listed in Section 8” of Aureon’s tariff. *See* Aureon Tariff F.C.C. No. 1, § 6.1, 4th Rev. Page 88. Aureon’s tariff further indicates that the transport between an active POI and the end office of a subtending Local Exchange Carrier (“LEC”) is provided by the subtending LEC and is thus not part of CEA service. *Id.* §§ 1.2, 5.4(A). In its Reply, Aureon claims that its CEA service encompasses transport beyond the seven POIs, but it ignores the operative provisions that define CEA service,<sup>7</sup> and then admits that the traffic routed to a number of its access stimulating CLECs is not routed consistent with the above-cited terms of its CEA tariff.<sup>8</sup>

In its August 20 *Ex Parte*, AT&T further noted that **[[BEGIN CONFIDENTIAL]]**

<sup>4</sup> AT&T *Ex Parte* Letter, WC Docket No. 18-60 (Aug. 20, 2019) (“AT&T Aug. 20 *Ex Parte*”).

<sup>5</sup> *See* Aureon Transmittal No. 44 (Sept. 30, 2019) (“September 2019 Proposed Tariff”).

<sup>6</sup> *See* AT&T Aug. 20 *Ex Parte*, at 4.

<sup>7</sup> *See, e.g.,* Aureon Tariff F.C.C. No. 1, § 6.1, 4th Revised Page 88 (“Iowa Network provides a two-point electrical communications path between a point of interconnection with the transmission facilities of an Exchange Telephone Company *at a location listed in Section 8 following* and Iowa Network’s central access tandem where the Customer’s traffic is switched to originate or terminate its communications.”) (emphasis added); *id.* § 8.2, 1st Revised Page 147 & Original Page 147.1 (listing the applicable points of interconnection).

<sup>8</sup> *See* Aureon Oct. 10 Reply, at 14-15. Aureon claims that even when access stimulation LECs connect with Aureon “at a non-POI location,” *id.*, *i.e.* “at a location” *not* “listed in Section 8” of Aureon’s tariff, Aureon Tariff F.C.C. No. 1, § 6.1, this other location is, by definition, a POI. Aureon Oct. 10 Reply, at 15. Even assuming, *arguendo*, that this were a correct interpretation of the tariff, the difficulty is that costs are being allocated, and transport mileage is being billed by subtending CLECs, based on the seven active POI locations, instead of the actual physical routing. As explained below, such practices are not reasonable or lawful.

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[REDACTED]

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<sup>9</sup> [[BEGIN CONFIDENTIAL]] [REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

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[[END CONFIDENTIAL]] Given the gravity of these issues, the Commission should either reject outright Aureon's September 2019 Proposed Tariff or, at a minimum, suspend and investigate the circuit and routing issues that AT&T has identified herein and in its October 7 Petition<sup>18</sup> and its August 20 *Ex Parte*.

**II. As a Result of these Routing Issues, Aureon's CLEC Benchmark Calculation is Deeply Flawed.**

As discussed in the *First Rate Order*, Aureon must benchmark its CEA transport rate against the rate of the competing ILEC, which is CenturyLink.<sup>19</sup> Aureon's rate is based strictly on minutes of use, whereas CenturyLink's rate includes both mileage-based and minutes-based components, so a comparison between the two rates requires the use of an "average" mileage.<sup>20</sup> The parties disputed which mileage should be used to set the benchmark rate, and the Commission ultimately determined that an historical "weighted average mileage" was appropriate.<sup>21</sup> In doing so, the Commission rejected Aureon's use of a simple numerical average of the distances between its POIs, and instead determined that the average would need to be weighted based on the volumes of calls and "*the actual routes that those calls travel.*"<sup>22</sup> This is because Aureon, like CenturyLink, is only allowed to charge for "the actual mileage of calls that it originates and terminates."<sup>23</sup>

[REDACTED]

[REDACTED] [[END CONFIDENTIAL]]

<sup>18</sup> See Petition of AT&T Services, Inc. to Reject or to Suspend and Investigate Iowa Network Services, Inc. Tariff Filing, WC Docket No. 18-60, Transmittal No. 44 (Oct. 7, 2019) ("AT&T Oct. 7 Pet.").

<sup>19</sup> See Memorandum Opinion and Order, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, 2018 WL 3641034, ¶ 41 (July 31, 2018) ("*First Rate Order*").

<sup>20</sup> See *id.* at 40-43.

<sup>21</sup> See *id.* ¶ 41.

<sup>22</sup> *Id.* ¶ 41 (emphasis added).

<sup>23</sup> *Id.*; see also *id.* ¶ 42 ("If Aureon had adopted a more traditional rate structure, such as that of CenturyLink, it would assess a separate transport mileage rate that would reflect the actual miles of transport provided.").

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Using this framework, and given the terms of Aureon's tariff, the Commission stated that its task was to "determine over how many miles, on average, Aureon's CEA service transports traffic between Aureon's tandem switch and the POIs at which Aureon connects with its subtending LECs."<sup>24</sup> Ultimately, the Commission determined (using Aureon-supplied data) that the appropriate figure was 103.159 miles.<sup>25</sup> In its Reply, Aureon has decreased this average to 100.498 miles, and it claims that this figure is based on "the MOUs for each POI-to-POI connection" in the 2018-19 period.<sup>26</sup>

[[BEGIN CONFIDENTIAL]]

[[END CONFIDENTIAL]] For this additional reason, the Commission should suspend Aureon's proposed tariff to investigate these issues and determine whether the CLEC benchmark rate set in the *First Rate Order* must be revised.

### III. Aureon Has Furtively Concealed These Issues From The Commission And From Interested Ratepayers, Including AT&T.

As a final matter, it bears mentioning that Aureon furtively concealed these issues until just yesterday. For example, in its *First Designation Order*, the Commission directed Aureon to "describe and explain its mileage calculations in detail" and to specifically "justify its claim that

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<sup>24</sup> *Id.* ¶ 37.

<sup>25</sup> *Id.* ¶ 43.

<sup>26</sup> See Aureon Oct. 10 Reply, at 25.

<sup>27</sup> [[BEGIN CONFIDENTIAL]]

[[END CONFIDENTIAL]]

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100 miles is the average length of transport that Aureon provides.”<sup>30</sup> **[[BEGIN CONFIDENTIAL]]**

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**[[END CONFIDENTIAL]]** As a result, neither the Commission, nor interested ratepayers, have had the opportunity to fully examine the impact of these issues on Aureon’s September 2019 Proposed Tariff or its prior CEA rates dating back to 2013 and possibly earlier.

\* \* \*

For the reasons identified above and in AT&T’s October 7 Petition, the Commission should reject outright or, in the alternative, suspend and investigate Aureon’s September 2019 Proposed Tariff.

Sincerely,

/s/ James F. Bendernagel, Jr.  
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<sup>30</sup> Order Designating Issues for Investigation, *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, ¶ 16 (Apr. 19, 2018) (“*First Designation Order*”).

<sup>31</sup> **[[BEGIN CONFIDENTIAL]]**

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**